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Via UPS Overnight Service

Hon. Martin Glenn  
United States Bankruptcy Court  
Southern District of New York  
One Bowling Green  
New York, New York 10004-1408

Re: In re Residential Capital, LLC et al.  
United States Bankruptcy Court  
Southern District of New York  
Jointly Administered Under Case No. 12-12020 MG  
Objection to Mack Claim (No. 386)

Dear Judge Glenn:

By this letter, which I ask be filed, the ResCap Borrower Claims Trust asks for a pre-motion conference pursuant to Local Bankruptcy Rule 7056-1 and Paragraph 6(a) of the Case Management & Scheduling Order (Dkt. No. 7447) as a prelude to filing a summary judgment motion in the above matter on two issues. The first issue whether the October 26, 2009 letter from the Macks to GMAC Mortgage, LLC ("GMACM"), can qualify as a Qualified Written Request (a "QWR") under 12 U.S.C. § 2605(e) when it was sent to an address other than the address specifically designated on monthly account statements to the Macks for QWRs in light of *Roth v. CitiMortgage Inc.*, 756 F.3d 178, 182 (2<sup>nd</sup> Cir. 2014) (citing *Berneike v. CitiMortgage Inc.*, 708 F.3d 1141, 1148-49 (10<sup>th</sup> Cir. 2013)). The second question is whether Mr. Mack can claim punitive damages in the amount of \$30 million (as alleged in Claim No. 386) or any other amount in light of *Houston v. U.S. Bank Home Mort. Wis. Serv.*, 2011 WL 4905533, \*5 (E.D. Mich. Oct. 14, 2011); *Carr v. Mid-Atlantic Fin. Servs., Inc.*, 2010 WL 3368620, \*14 (N.D. Ga. July 27, 2010); *Sarsfield v. Citimortgage. Inc.*, 667 F. Supp. 461, 470 (M.D. Pa. 2009); *In re Thomasevic*, 273 B.R. 682, 686 (Bankr. M.D. Fla. 2002) (punitive damages not recoverable under RESPA) and the Court's power to subordinate punitive damages in an insolvent chapter 11 case per *Owens Corning v. Credit Suisse First Boston*, 322 B.R. 719, 724 (D. Del. 2005) (court can subordinate punitive damage claim in chapter 11 case plan because 11 U.S.C. § 1129(a)(7) imports 11 U.S.C. § 726(a)(4)); *In re Residential Capital, LLC*, 517 B.R. 462, 490-91 (Bankr. S.D.N.Y. October 6, 2014); *In re Friedman's, Inc.*, 356 B.R. 766, 775-76 (Bankr.S.D. Ga. 2006) (court subordinates punitive damage claim

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in chapter 11 case so that claim does not dilute recovery of innocent creditors); *In re Keene Corp.*, 171 B.R. 180, 186 (Bankr. S.D.N.Y. 1994) (court can subordinate punitive damage claims in chapter 11 case); *In re Drexel Burnham Lambert Group, Inc.*, 1990 Bankr. LEXIS 2889, 32-33 (Bankr. S.D.N.Y. 1990); *In re Johns-Manville Corp.*, 68 B.R. 618, 627-28 (Bankr. S.D.N.Y. 1986), *aff'd* 74 B.R. 407 (S.D.N.Y. 1987) (punitive damage claim subordinated under 11 U.S.C. § 510(c) in chapter 11 case); *Matter of Colin*, 44 B.R. 806, 810 (Bankr. S.D.N.Y. 1984) (punitive damage claim subordinated under 11 U.S.C. § 510(c) in chapter 11 case).

Additionally, I would like to propose that if the Court is willing to conduct a pre-motion conference, it do so at the status conference now scheduled for January 6, 2014 at 4:00 p.m. Eastern time.

Thank you for your time and consideration.

Respectfully submitted,



Adam A. Lewis

Enclosure

cc: David F. Garber, Esq. (Encl.) (Via Email and U.S. Mail)